

MARCOS L. MUSQUEZ #CVN338
885 N. SAN PEDRO ST.
SAN JOSE, CA 95110
#05036797

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCOS L. MUSQUEZ,
Plaintiff,

6

8 CAPT. D SEPULVEDA IN HIS)
9 INDIVIDUAL AND OFFICIAL)
10 CAPACITIES AS FACILITY)
11 COMMANDER OF SANTA CLARA)
12 COUNTY DEPT. OF CORRECTIONS;)
13 MAIN JAIL; CUSTODIAL OFFICER) Civil Action No. C-07-5966 VRW (PR)
14 DOMINGUEZ IN HIS INDIVIDUAL)
15 AND OFFICIAL CAPACITIES;)
16 CUSTODIAL OFFICER CORTEZ IN)
17 HIS INDIVIDUAL AND OFFICIAL) FIRST AMENDED COMPLAINT
18 CAPACITIES; CUSTODIAL OFFICER)
19 MACHADO IN HER INDIVIDUAL)
20 AND OFFICIAL CAPACITIES AND)
21 CUSTODIAL OFFICER # 1979 IN)
22 HIS/HER INDIVIDUAL AND)
23 OFFICIAL CAPACITIES,)
24 Defendants.)

COMPLAINT

I. JURISDICTION

25 !) This Court has jurisdiction over plaintiff's federal claims pursuant
26 to 28 U.S.C. §§ 1331 and 1333 (a) (3). If applicable, this Court
27 has jurisdiction over plaintiff's state-law claims pursuant to 28 U.S.C.
28 § 1337.

II. VENUE

2) The Northern District of California is an appropriate venue under 28 U.S.C. § 1331 (b) (2) because a substantial part of the events or omissions giving rise to the claims occurred in this district.

III. PARTIES

3) Plaintiff, Marcos L. Musquez is a pretrial detainee at Santa Clara County Dept. of Corrections (hereafter " DOC ").

4) Defendant Capt. D Sepulveda is responsible for day to day operations of Santa Clara County DOC, main jail, who oversees, gives orders to, and /or disciplines officials under his authority. He is sued in his individual and official capacities.

5) Defendant Custodial Officer, (hereafter " CO "), Dominguez is employed at the DOC. He is sued in his individual and official capacities.

6) Defendant C.O. Cortez is employed at the DOC. He is sued in his individual and official capacities.

7) Defendant C.O. Machado is employed at DOC. She is sued in her individual and official capacities.

8) C.O. # 1979 is employed at the DOC. He/She is sued in his/her individual and official capacities.

9) At all time relevant to the events described herein, all defendants have acted under color of state law.

IV. FACTUAL ALLEGATIONS

Deprivation of Constitutional Rights

10) Plaintiff has been subjected to continuous violations to his protected...

1 Constitutional Rights by being deprived of his due process liberty inter-
2 rest by the staff, C.O.'s, at Santa Clara County DOC main jail. Plaintiff
3 has been subjected to Intentional withholdiing of his duly auth-
4 orized mail, newspapers and legal mail. The C.O. listed under
5 " Parties " have collectively destroyed/delayed and defaced
6 plaintiff's USA Today on numerous occasions, not delivered hi
7 s subscription of Skin and Ink magazine, intercepted outgoing
8 personal mail to plaintiffs' family on numerous occasions, not
9 delivered legal mail from the United States District Court
10 (Northern District of California), and processed incoming
11 legal mail (returned), as normal mail on an occasion.

8 ONGOING VIOLATIONS TO PLAINTIFF'S CONSTITUTIONAL RIGHT

9
10 11) Although plaintiff has filed numerous administrative
11 grievances regarding the violation(s) mentioned in #10, defen-
12 dant's continue to deprive plaintiff of his mail and still
13 display a behavioral pattern of depriving plaintiff of his
14 duly authorized mail, newspapers...et cetera.

14 EXHAUSTION

15 12) Plaintiff has exhausted all available administrative
16 remedies regarding the matters described in this complaint.
17 Plaintiff filed grievances # 68876 on 3/29/07 regarding his
18 magazine (Skin and Ink), not being delivered, his USA Today
19 newspapers being defaced and not delivered and his outgoing
20 mail (2) affidavits being intercepted by C.O. and not delive-
21 red. Grievance #71282 dated 11/3/07 is in regards to plainti-
22 ffs' newspaper USA Today not being delivered to him for the
23 dates of Oct. 17,2007, Oct. 18,2007, Oct. 19,2007 and Oct.
24 20 and 21,2007. Grievance #712821 is regarding legal mail
25 not being delivered to him . The legal mail in question was
26 regarding Federal Civil matter C-07-0318 VRW mailed to the
27 plaintiff on or about Oct. 15, 2007.
28

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1 13) Grievance #71863 dated Jan. 1/12/2008 pertains to plaintiff not receiving his subscription to the San Jose Mercury
2 News on the dates Jan. 8,9,10 and 11, 2008. When plaintiff did
3 receive his newspaper, it was defaced by C.O. Machado by using
4 her boot to kick plaintiffs' newspaper under the door thus
5 defacing each of the above-mentioned newspapers. Grievance#
6 72370 dated 2/15/2008 is in regard to plaintiff not receiving
7 his newspaper (Mercury News), for the date of Jan. 23,2008,
8 Feb.10,2008 and Feb. 13 and 14, 2008. Exhibits (A) and (B)
9 are true copies of billing statements for the subscriptions
10 to Skin and Ink magazine. Exhibit (C) is a true copy of further
11 evidence that plaintiffs' outgoing legal mail is being
12 opened and tampered with prior to leaving the facility.
13 Exhibit (D) is a true copy of returned letter to plaintiff
14 from a legal entity (Geri Lynn Green), attorney at law that
15 was processed as regular mail, inspected and the contents of
16 the mail were missing when delivered back to plaintiff.

17
18 16 V. CAUSE OF ACTION

19
20 17 14) Plaintiff support the following claims by reference to
21 the previous paragraphs of this complaint.

22
23 20 Count I

24
25 21 15) Defendant Capt. D Sepulveda failure to supervise his
26 officials at Santa Clara County Main Jail under his authority
27 has proximately caused plaintiffs' duly authorized mail
28 to be deprived from plaintiff and continuous deprivation
 of plaintiffs' right under the Due Process Clause of the
 Fourteenth Amendment of the United States Constitution and
 violation of plaintiffs' U.S. Const. First Amendment right
 to send and receive mail.

29 //
30 //

Count II

1 16) C.O. Dominguez intentional withholding of plaintiffs' mail and USA Today newspaper has proximately caused plaintiff monetary loss and deprived plaintiff of his right under the Due Process Clause of the Fourteenth Amendment of the United States Const. and further violated plaintiffs' U.S. First Amendment right to send and receive mail.

6 Count II
7 Count III

8 17) C.O. Cortez intentional withholding of plaintiffs' mail and newspaper and intentionally defacing plaintiffs' newspaper has proximately caused plaintiff monetary loss and deprived plaintiff of his right under the Due Process Clause of the Fourteenth Amendment of the U.S. Const. and further deprived plaintiffs' First Amendment right to send and receive mail, newspapers...et cetera.

14
15 Count IV.

16 18) C.O. Machado intentionally defaced and withheld plaintiffs newspaper on more than one occasion. Such acts proximately caused plaintiff monetary loss and deprived plaintiff of his right under the Due Process Clause of the Fourteenth Amendment of the U.S. Const. and further proximately caused the deprivation of plaintiffs First Amendment right to send and receive mail, newspapers...et cetera.

22 Count V.

23 19) C.O. # 1979 intentionally withheld plaintiffs newspaper. Such acts proximately caused plaintiff monetary loss and deprived plaintiff of his right under the Due Process Clause of the Fourteenth Amendment of the U.S. Const. and further proximately caused the deprivation of plaintiffs First Amendment right to send and receive mail, newspapers...et

1 cetera.

2 20) If this Court grants this FAC, plaintiff will be able
3 to specifically link each named defendant via discovery.

4

5 WHEREFORE, plaintiff respectfully prays that this Court;

6

7 1) Declare that the acts and omissions described herein
8 violated plaintiffs' rights under the Constitutional and la-
9 ws of the United States.

10

11 2) Plaintiff further request nominal damages in the amou-
12 nt of one thousand dollars (1,000.00). Plaintiff further
13 requests compensatory, and punitive damages, as allowed by
14 law, against each defendant, jointly and severally in the
15 amount of ten thousand dollars (10,000.00), for the del-
16 iberate, intentional, sadistic destruction and withholding
17 of plaintiffs' mail, newspapers and magazines and further
18 relief this Court may deem just and proper.

19 Respectfully submitted this 2 day of April, 2008.

20
21
22
23
24
25
26
27
28

M. L. Musquez
Marcos L. Musquez #CVN338
885 N. San Pedro St.
San Jose, California 95110
#05036797

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare and verify under
penalty of perjury under the laws of the United States of
America that the foregoing is true and correct. Executed
on April 2, 2008.

M. L. Musquez
Marcos L. Musquez

(6)

Main Jail

Main Jail South []

North County Jail []

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION
INMATE GRIEVANCE FORMElmwood []
CCW []
WRC []

68876

INMATE'S NAME: <u>Musquiz Marcus</u>	BOOKING NUMBER: <u>05036797</u>	HOUSING UNIT: <u>5B-06</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: In re C-07-0318. There is a ongoing problem with my mail being not delivered to me. Specifically, (2) two ~~not mailed~~ JAM, darits + (5) magazines, Skin + Ink. Recently, I have not received my newspaper USA TODAY on 3/23/07, 2/25/07 and another issue in the month of March. In addition, when I do receive my newspaper, the front page has a large section torn out of it making it unreadable.

WHAT SOLUTION ARE YOU RECOMMENDING?: As stipulated in (Fed C.R.) C-07-C318

Your Signature: M. Musquiz Date: 3/29/07 Time: 4 AM/PM
(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on: Day: 3/29/07 Date: 3/29/07 Time: 1710 Officer: Mindassian #2682 Team: B

RESPONDING OFFICER'S STATEMENT (Please print): Will Refer to

The mail Room

[] Resolved Refer to Level II

Officer's Name: Mindassian #2682 Team: B Date: 03/29/07

SUPERVISOR'S ACTION: See response below.

[X] Resolved [] Refer to Level III

Supervisor's Name: _____ Team: _____ Date: ____/____/____

SHIFT LIEUTENANT REVIEW: [] Concur [] Reversed _____

SIGNATURE: _____ Date: ____/____/____ Time: _____

SUPPORT SERVICE RESPONSE: Unit Assigned: Terminal Services Date Assigned: ____/____/____
Date Due: 04/05/07

We do not hold any mail. Also USA magazine 3/23/07 was delivered on 3/28/07 to your cell. Magazine stated it 2/25/07 not located in cell of your publish. I

Response by: CSA Title: CSA Date: 4/15/07 Time: 0130

FACILITY COMMANDER/DESIGNEE REVIEW: [X] Concur [] Reversed _____

SIGNATURE: _____ Date: 4/16/07 Time: 0730

RESPONSE RETURNED TO INMATE: Date: 4/16/07 Time: 0730 By: 222
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt) (1A)

INMATE'S NAME: <u>Musquiz, Marcos</u>	BOOKING NUMBER: <u>5503</u>	HOUSING UNIT: <u>SB/06</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC: I did not receive my news paper (USA TODAY) on Oct 17th thru the 21st. On file, are several grievances regarding missing news papers; delayed newspaper etc re: Capt. Sepulveda - Court, Counsel Mack Bernal were notified on 11/2/07.

WHAT SOLUTION ARE YOU RECOMMENDING?: That my duly authorized mail be delivered

Your Signature: [Signature] Date: 11/13/07 Time: 5 AM/PM

(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:

Day: SUNDAY Date: 11/21/07 Time: 1724 Officer: Fors #2712 Team: B

RESPONDING OFFICER'S STATEMENT (Please print): REFER TO MAIL ROOM

Resolved Refer to Level II

Officer's Name: ***** Team: 1 Date: 11/13/07

SUPERVISOR'S ACTION: Our Records show that on 10-15-07 you received the USA TODAY Newspapers from 10-19 10-20 & 10/21/07. These papers were delivered to Officer # 1979

Resolved Refer to Level III

Supervisor's Name: BECCIA Team: 111410 Date: 11/14/07

SHIFT LIEUTENANT REVIEW: Concur Reversed

SIGNATURE: _____ Date: 11/16/07 Time: _____

SUPPORT SERVICE RESPONSE: Unit Assigned: Inmate Services Date Assigned: 11/16/07
Date Due: 11/16/07

Response by: _____ Title: _____ Date: 11/16/07 Time: _____

FACILITY COMMANDER/DESIGNEE REVIEW: Concur Reversed

SIGNATURE: L.H. HULY/16/07 Date: 11/16/07 Time: 2630

RESPONSE RETURNED TO INMATE: Date: 11/19/07 Time: By:
Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)
(2A)

Main Jail []
 Main Jail South []
 North County Jail []

INMATE'S NAME: <u>Mosquera Marcos</u>	BOOKING NUMBER: <u>0503 6797</u>	HOUSING UNIT: <u>5B 38</u>
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC! In accordance with CV-07-5966 (see attached)

my subscription to the Mercury News has been intentionally delayed. As of todays date I have not received the following newspapers... Jan 10, 08, Jan 11, 08, Jan 8, 08, and Jan 9, 08, January 9th and 10th. As described in the filed complaint the mail should not be delayed or destroyed forthwith (14th Amend)

WHAT SOLUTION ARE YOU RECOMMENDING?: 1/8/08, 1/9/08, 1/10/08, 1/11/08, 1/12/08 no longer

Your Signature: Mark T. Date: 1/12/08 Time: 5 AM/PM

(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:

Day: 8/11/08 Date: 01/12/08 Time: 0800 Officer: METHYLIC 2706 Team: 1

RESPONDING OFFICER'S STATEMENT (Please print):

Resolved Refer to Level II

Officer's Name: _____ Team: _____ Date: _____ / _____ / _____

SUPERVISOR'S ACTION: _____

Resolved Refer to Level III

Supervisor's Name: _____ Team: _____ Date: _____ / _____ / _____

SHIFT LIEUTENANT REVIEW: Concur Reversed _____

SIGNATURE: _____ Date: _____ / _____ / _____ Time: _____

SUPPORT SERVICE RESPONSE: Unit Assigned: Inmate SVC, Date Assigned: 1/11/08
 Date Due: 01/19/08 Mail

OUR RECORDS SHOWED THAT 1/9/08 AND 1/11/08 WAS DELIVERED
 ON 1/12/08. 1/10/08 WAS DELIVERED ON 1/15/08. 1/12/08 AND 1/13/08
 WAS DELIVERED 1/14/08

Response by: CM Dura Title: CSA Date: 1/18/08 Time: 1900 HRS

FACILITY COMMANDER/DESIGNEE REVIEW: Concur Reversed _____

GETTING A NEWSPAPER THROUGH THE MAIL SOMETIMES CAUSES A DELAY OF A FEW DAYS.

SIGNATURE: _____ Date: 1/23/08 Time: 0428

RESPONSE RETURNED TO INMATE: Date: 01/23/08 Time: By

Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

6885 REV 7/92 (4A)

Cont.

Any further delays in my duly authorized mail will lead to a preliminary injunction to be filed, sanctions and I will add all names (C.O's - GSA's) to the complaint on the applicable shifts that my newspapers have been missing.

/s/

Marcos L. Musquiz

Main Jail

Main Jail South []

North County Jail []

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION

INMATE GRIEVANCE FORM

Page 12 of 18

Elmwood []

CCW []

WRC []

INMATE'S NAME: <i>Mosquera, Marcus</i>	BOOKING NUMBER: 0503 6787	HOUSING UNIT: SB-38
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DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: *As of todays date 2/2/08**I have not received my subscription of Mercury News dated 1-23-08*

WHAT SOLUTION ARE YOU RECOMMENDING?:

Your Signature: *[Signature]* Date: 2/13/08 Time: 9 AM/PM

(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:
Day: Monday Date: 02/10/08 Time: 3000 Officer: On Call #2018 Team: D

RESPONDING OFFICER'S STATEMENT (Please print):

[] Resolved [] Refer to Level II

Officer's Name: _____ Team: _____ Date: _____ / _____ / _____

SUPERVISOR'S ACTION: _____

[] Resolved [] Refer to Level III

Supervisor's Name: _____ Team: _____ Date: _____ / _____ / _____

SHIFT LIEUTENANT REVIEW: [] Concur [] Reversed _____

SIGNATURE: _____ Date: 2/11/08 Time: _____SUPPORT SERVICE RESPONSE: Unit Assigned: Inmate Svcs Date Assigned: 2/11/08
Date Due: 02/11/08 Mail

IT USUALLY TAKE A WHILE TO RECEIVE YOUR FIRST ISSUE OF SAN JOSE MERCURY NEWS ONCE YOU PLACE YOUR ORDER. CHECK BACK IN THE NEWSPAPER CO.

Response by: Officer Title: Officer Date: 2/16/08 Time: 10:00

FACILITY COMMANDER/DESIGNEE REVIEW: [] Concur [] Reversed _____

SIGNATURE: L. Henry/211 Date: 2/7/08 Time: 2149RESPONSE RETURNED TO INMATE: Date: 02/11/08 Time: My:

Distribution: White-Administration Canary-Inmate (Final Disposition) Pink-Inmate (Initial Receipt)

Main Jail Main Jail South North County Jail

SANTA CLARA COUNTY DEPARTMENT OF CORRECTION (m.a.)

Elmwood CCW WRC

38

INMATE GRIEVANCE FORM

H 72370 ISSUES

INMATE'S NAME: MUSQUE, MARCOS

BOOKING 0503
NUMBER: 6797

HOUSING UNIT: 5B/38

DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC: To coincide with grievance # 72195, as of todays date 2/14/08, I still have not received my Mercury News paper dated 1-23-08. Also, as of todays date I have NOT received my Mercury News paper date(s) 2-10-08, 2-11-08, 2-12-08, 2-13-08 and 2-14-08. My papers are obviously being delayed in the mailroom because when I do receive my papers I receive them in a bunch ranging from 3 to 5 days @ one time.

WHAT SOLUTION ARE YOU RECOMMENDING?: That my missing paper 1/23/08 be reimbursed and this intend and delay of my mail stop?

Your Signature: m Date: 2/15/08 Time: 10 AM/PM

(Do NOT write below this line. Use additional sheets if necessary)

Received from Inmate on:

Day: Friday Date: 2/15/08 Time: 2226 Officer: Huskin #206 Team: A

RESPONDING OFFICER'S STATEMENT (Please print):

Resolved Refer to Level II

Officer's Name: _____ Team: _____ Date: _____ / _____ / _____

SUPERVISOR'S ACTION: _____

Resolved Refer to Level III

Supervisor's Name: _____ Team: _____ Date: _____ / _____ / _____

SHIFT LIEUTENANT REVIEW: Concur Reversed _____

SIGNATURE: _____ Date: _____ / _____ / _____ Time: _____

SUPPORT SERVICE RESPONSE: Unit Assigned: 10mail SVCS Date Assigned: _____ / _____ / _____
Date Due: 02/22/08

Mercury News were received and forwarded to your cell on 2/23/08 - RECEIVE IT - 2/28/08
2/11/08 - RECEIVE IT - 2/12/08
2/10/08 - RECEIVE IT - 2/12/08
2/12/08
2/13/08 } RECEIVE IT on 2/16/08.
2/14/08

Response by: 3/5/08 Title: C-A Date: 3/15/08 Time: 10:50 AM

FACILITY COMMANDER/DESIGNEE REVIEW: Concur Reversed _____

PAPERS ARE DELIVERED AS THE ARE RECEIVED.

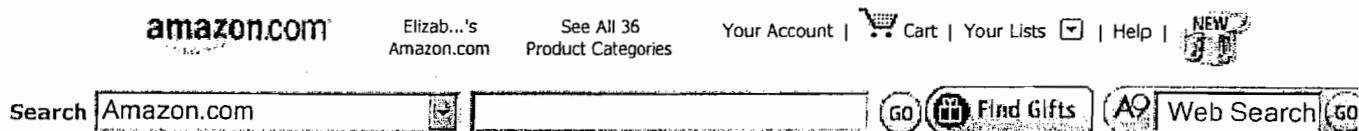
SIGNATURE: LM Date: 3/15/08 Time: 0753

RESPONSE RETURNED TO INMATE: Date: 3/15/08 Time: By:

Distribution: White-Administration

Canary-Inmate (Final Disposition)

pink-Inmate (Initial Receipt)



Your Account > Where's My Stuff? > Order Summary

When will your items arrive?

Shipment #1: 1 item - delivery estimate: May 25, 2006 - June 26, 2006

Order Placed: February 25, 2006

Amazon.com order number: 002-4991822-0632850

Order Total: \$17.95

✓ Shipment #1: Shipped on March 1, 2006 Need to modify this subscription?

Delivery estimate: May 25, 2006 - June 26, 2006 (More about estimates)
1 package via US First Class

Shipping Address:

Main Jail -05036797
Marcos Musquez CVN338
885 N San Pedro St
San Jose, CA 95110-1718
United States

Items Ordered

1 of: **Skin & Ink [MAGAZINE SUBSCRIPTION]** \$17.95
[Magazine]
Sold by: Amazon.com
- 1 item(s) Gift options: None

Price

Shipping Speed:

Standard Shipping

Item(s) Subtotal: \$17.95

Shipping & Handling: \$0.00

Total Before Tax: \$17.95

Total for this Shipment: \$17.95

Exhibit (A)

Payment Information

Need to print an invoice?

Payment Method:

Visa | Last 5 digits: 54879

Item(s) Subtotal: \$17.95

Shipping & Handling: \$0.00

Total Before Tax: \$17.95

Estimated Tax: \$0.00

Grand Total: \$17.95

Billing Address:

Elizabeth Zacarias

United States

amazon.com

Final Details for Order #002-4991822-0632850

Print this page for your records.

Order Placed: February 25, 2006

Amazon.com order number: 002-4991822-0632850

Order Total: \$17.95

Shipped on March 1, 2006

Items Ordered

1 of: *Skin & Ink [MAGAZINE SUBSCRIPTION]*
Sold by: Amazon.com

Price

\$17.95

Shipping Address:

Main Jail -05036797
Marcos Musquez CVN338
885 N San Pedro St
San Jose, CA 95110-1718
United States

Item(s) Subtotal: \$17.95

Shipping & Handling: \$0.00

Total Before Tax: \$17.95

Total for this Shipment: \$17.95

Shipping Speed:
Standard Shipping

Payment Information

Payment Method:
Visa | Last 5 digits: 54879

Item(s) Subtotal: \$17.95
Shipping & Handling: \$0.00

Billing Address:
Elizabeth Zacarias
[REDACTED]
United States

Total Before Tax: \$17.95
Estimated Tax: \$0.00

Grand Total: \$17.95

Exhibit (B)

To view the status of your order, return to [Order Summary](#).

Please note: This is not a VAT invoice.

[Conditions of Use](#) | [Privacy Notice](#) © 1996-2007, Amazon.com, Inc. or its affiliates

Attn: Mr. Richard W. WIEKING

To: (Clerk) of Northern District Federal Court

In re: CO7-3181RW

Marcos L. Musquez

vs.

Santa Clara County Main Jail

Santa Clara County Valley Medical Center
Nurse (Kerri)

Lorin Horn, RN (Nurse Mgt.) et al.

Dear Sir / Mam: Exhibit (C)

On or about the date of January 4, 2007, I Marcos L. Musquez mailed to you a completed complaint by a prisoner under the Civil Rights Act, 42 U.S.C §1983 and an application to proceed In Forma Pauperis. Enclosed is the original form of "Certified Prisoner's Account" that should have been included with the above-mentioned.

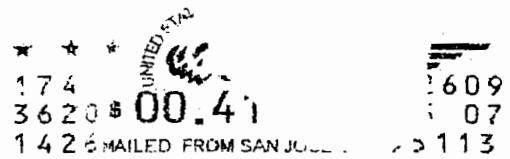
I apologize to the Court and Clerk for the delay and mix up. Thank you.

Regards,

m-2

PUBLIC INTEREST LAW FIRM

Law Foundation of Silicon Valley
111 WEST ST. JOHN STREET, SUITE 315
SAN JOSE, CALIFORNIA 95113



SB

6

Marcos L. Musquez
CVN 338
Main Jail
885 N. San Pedro Street
San Jose, CA 95110

**CONFIDENTIAL LEGAL MAIL
ATTORNEY-CLIENT COMMUNICATION**

35118+1715

(Received + logged as legal mail)

Exhibit (D)

M. Musquez CVN338
885 N. San Pedro St
San Jose, California 95110

SAN JO.

10 AUG 2001

#05036797

50

Attn: Geri Lynn Green
Attorney at Law
1231 Market St
San Francisco, Calif

**COUNTY JAIL
GENERAL MAIL**

34103+1400

Forwarding Order Expired
 Unable To Forward
 Insufficient Address
 Moved, Left No Address
 Unclaimed Refused
 Attempted - Not Known
 No Such Street Number
 Vacant Negligible
 No Mail Receptacle
 Box-Closed No Order
 Returned For Better Address
 Postage Due

Mailed out a "Legal Mail"; Returned as regular mail
inspected and contents missing. Soon thereafter I contacted

PROOF OF SERVICE / Certificate of Service

I, ADAM GUERRERO declare:

I am, and was at the time of the service hereinafter mentioned, over the age of 18 years and not a party of the above-entitled cause. My (residence or business) address is

885 N. San Pedro St.
San Jose, CA

95110

and I am employed , or resident in, Santa Clara County, California.

On the date of, April 8, 2008 I served the:

First Amended Complaint (6 pgs) Six grievances
Exhibits (A) (B) (C) (D)

by depositing a copy of the document(s) in the United States mail at
(location) SCCJ21, (city) San Jose _____,

Santa Clara County, California in a sealed envelope, with postage fully prepaid, addressed as follows:

U.S. District Court
Northern District of California
450 GOLDEN GATE Ave.
San Francisco, CA 94102

Office of County Counsel
County of Santa Clara
70 W. Hedding St., 9th Floor, East Wing
San Jose, CA 95110-1770

At the time of the mailing there was regular delivery of the United States mail between the place of deposit and the place of address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 4/8/08

Adam Guerrero
(Signature)

ADAM GUERRERO
(Print or typed name)